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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,197	02/04/2004	George E. McKedy	3903	4230

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EXAMINER

LAWRENCE JR, FRANK M

ART UNIT PAPER NUMBER

1724

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,197

Applicant(s)

MCKEDY, GEORGE E.

Examiner

Frank M. Lawrence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 23-34, 40-51 and 64-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 40-50 and 69 is/are allowed.
- 6) ☒ Claim(s) 23-34, 64-68 and 70-73 is/are rejected.
- 7) ☒ Claim(s) 51 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The language “free from carbon dioxide generating compounds,” or equivalent language is not found in the specification as filed.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 23-32, 64-68 and 70-73 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The language “wherein said composition is free from carbon dioxide generating compounds” in claims 23 and 64 is considered to be new matter. While a negative limitation may be added to the claims for the purposes of distinguishing over a prior art reference, the limitation must be found or clearly understood from the specification and drawings as originally filed. The examiner notes that the fourth full paragraph of page 2 states that the instant composition contains a lesser number of components than other compositions that are used for a like purpose, one having ordinary skill in the art would not take the statement as

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excluding carbon dioxide generating compounds. Claims 24-32, 65-68 and 70-73 are rejected for depending from a rejected parent claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 34 is rejected under 35 U.S.C. 102(b) as being anticipated by JP '058.

6. JP '058 teaches a deodorant composition comprising a ferrous salt and sodium tartrate or potassium tartrate (dipotassium tartrate) (see abstract).

7. Claim 33 is rejected under 35 U.S.C. 102(b) as being anticipated by Tsao et al. '675.

8. Tsao et al. '675 teach a liquid or solid cellulose solvent composition including ferric chloride, sodium tartrate, an oxygen-scavenging agent, and a caustic compound such as sodium hydroxide (claims 1-6, col. 3, lines 35-60).

***Double Patenting***

9. Claim 51 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 45.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Allowable Subject Matter***

10. Claims 1-10, 40-50 and 69 are allowed.

11. The following is an examiner's statement of reasons for allowance: The prior art of record fails to disclose or suggest a composition consisting essentially of oxidizable iron and a tartrate. The cited prior art each discloses a non-oxidizable iron form or the mandatory inclusion of a carbon dioxide producing component. The prior art also fails to disclose a composition consisting essentially of iron and a tartrate selected from the group listed in claim 6, a composition consisting essentially of iron, a tartrate selected from the group listed in claims 45 and 50, and an electrolyte, or a composition comprising iron, a tartrate selected from the group listed in claim 69, and an electrolyte.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

12. Applicant's arguments filed November 23, 2005 have been fully considered but they are not persuasive. Applicant argues that claims 6, 33, 34, 45, 50, 51 and 69 have been rewritten in independent form and are allowable, however the limitations of claim 29 were not included in claims 33 and 34 as suggested in the non-final office action, and the claims remain rejected over the prior art. Also, claims 50 and 51 do not include the limitations of intervening claim 46. Claim 50 is allowable but claim 51 is now a duplicate of claim 45 and should be canceled.

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13. The examiner agrees with the remainder of applicant's arguments with respect to the rejections over the Powers, Aswell, Makino and Ivanov references. These rejections are withdrawn, however claims 23-32, 64-68 and 70-73 are now rejected for new matter as discussed in paragraph 3 above. The indefiniteness rejection has also been overcome by applicant's arguments and is withdrawn.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 571-272-1161. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank M. Lawrence  
Primary Examiner  
Art Unit 1724

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*Frank Lawrence*  
1-3-06